401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243-1534

Addendum to Rationale
Including
Record of Comments and Responses
(Notice of Determination)

National Pollutant Discharge Elimination System (NPDES)
Multi-Sector General Permit
for
Storm Water Discharges From Industrial Activities

Permit No. TNR050000

February 6, 2002

Administrative Record

The Tennessee Storm Water Multi-Sector General Permit for Industrial Activities (TMSP) is intended to cover storm water discharges to waters of the State of Tennessee from a wide variety of industrial activities. The TMSP is derived from, and based in large part upon, the Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities as promulgated by the Environmental Protection Agency (EPA) in Federal Register Vol. 60, No. 189 on Friday, September 29, 1995.

Because the conditions which affect the presence of pollutants in storm water discharges vary among industries, the proposed permit contains 31 industry-specific sections (Sectors) that describe the Storm Water Pollution Prevention Plan (SWPPP) requirements, the numeric effluent limitations requirements and the monitoring requirements for each permitted industry. These industry-specific sectors are contained in Part XI of the permit. There are also a number of permit requirements that apply to all industries. These requirements may be found in Parts I through X of the TMSP. Permit requirements applicable to all industries include the general coverage discussion, the Notice of Intent requirements and the standard permit conditions.

The current TMSP will expire on December 31, 2001, and will be reissued. On October 22, 2001, the division of Water Pollution Control (the division) issued Public Notice #MMI-020, which announced the public hearings, which were conducted at the following dates and locations:

- Monday, November 26, 2001, at 7 p.m. (c.s.t.), in the Ruth Neff Conference Room on the 17th Floor of the L & C Tower, at 4th Ave. and Church Street in downtown Nashville, 37243-1534.

- Thursday, December 6, 2001, at 7 p.m. (e.s.t.), in the Goins Auditorium, Pellissippi State Technical Community College, 10915 Hardin Valley Rd., Knoxville, TN 37933-0990.

- Thursday, December 13, 2001, at 7 p.m. (c.s.t.), in the Large Conference Room of the Environmental Assistance Center - Jackson, 362 Carriage House Drive, Jackson, TN 38305-2222.

On November 5, 2001, the division issued Public Notice #MMI-021, which announced its intent to issue the TMSP. Copy of the draft TMSP permit was made available in an electronic format on the division's web site at http://www.state.tn.us/environment/permits/tmsp.htm. The proposed NPDES permit was drafted in accordance with the provisions of the Federal Water Pollution Control Act, the Tennessee Water Quality Control Act, and other lawful standards and regulations. The division received comments through December 24, 2001. This Notice of Determination (NOD) serves as the division's response to issues that were raised at the hearing and/or submitted during the subsequent comment period.

Comments received and responses

1. Comment: **Table L-2 "Monitoring Requirements for Landfills and Land Application Sites" had the following reference: "The MDL for magnesium is 0.02 mg/L method 200.6" which appeared to be included by error.**

Response: The footnote in Table L-2 was a typographical error, and has been removed from the final version of the TMSP. It should be noted that State's General Water Quality Criteria Rule, specifically Chapter 1200-4-3-.05: "Interpretation of Criteria," does not have a required detection level (RDL) or a method detection level (MDL) listed for magnesium.

2. Comment: **Several permittees expressed concern regarding the cut-off concentration for total aluminum (0.75 mg/L). The permittees argued that considering an abundance of aluminum in soil, the cut-off concentration was too low.**

Response: The previous TMSP did not have effluent limitations for the facility's storm water runoff, except for those facilities with established federal effluent guidelines for storm water discharges, and for storm water discharges composed of coal pile runoff (Part V.A and V.B). All parameters were monitored on a "Report" only basis. Similarly, the new permit will not establish effluent limitations, but will require reporting of effluent characteristics. Nevertheless, a certain "cut-off concentrations" will be established for each of the monitored parameters.

The division is not assigning limits for these parameters at this time since it is the intent of the division that the permittee institutes a Storm Water Pollution Prevention Plan (SWPPP) in order to minimize the discharge of these pollutants from storm water outfalls. It is the opinion of the division that the best method for dealing with potential pollution associated with storm water discharges from any facility is through implementation of an aggressive SWPPP, coupled with discharge monitoring to verify SWPPP effectiveness.

In order to assist the permittee in the evaluation of the effectiveness of the SWPPP, benchmark values developed for the TMSP were provided for comparison. These benchmark values (cut-off concentrations) were developed by

the EPA and the State of Tennessee and are based on data submitted by similar industries for the development of the multi-sector general storm water permit. The cut-off concentrations are target values and should not be construed to represent permit limits.

Abundance of aluminum and other metals found in the soils of Tennessee may be a cause for exceedance(s) of cut-off concentration for those permittees with a high total suspended solids (TSS) content in storm water runoff samples. For example, sectors F and L have reported median values[1] of total aluminum of 1.19 and 1.37 mg/L, respectively, which were higher than the cut-off concentration of 0.75 mg/L.

We suspect, based on a small survey of facilities reporting high Al values, that many of the reported exceedances of cut-off concentrations for aluminum are a result of high TSS in samples which originate from unstabilized soils at those industrial sites.

Erosion control, soil stabilization and sediment control at industrial and non-industrial portions of a permitted facility greatly reduces amount of soil particles contained in the storm water runoff. Correct sampling procedures (i.e. collecting a storm water sample representative of industrial activities only, and in the water column, rather than collecting sediment from the bottom of a storm water conveyance) further reduces amount of soil particles in a sample. Minimization of erosion problems at any site greatly reduces amount of TSS, which consequently results in greatly reduced total aluminum values.

The Tennessee General Water Quality Criteria Rule, specifically Chapter 1200-4-3-.03: "Criteria for Water Uses," does not have a recommended Criterion Maximum Concentration (CMC, Acute Water Quality Criteria) listed for aluminum. The EPA's recommended Criterion Maximum Concentration for total aluminum remains unchanged, at 0.750 (mg/L). EPA's NPDES Multi-Sector General Permits for Storm Water Discharges Associated With Industrial Activities (Federal Register: October 30, 2000 (Volume 65, Number 210), Pages 64745-64794) retains a cut-off concentration for total aluminum of 0.75 mg/L. Based on the above discussion, the division will also retain the total aluminum cut-off concentration of 0.75 mg/L in the new TMSP.

3. Comment: **Several permittees expressed concern regarding the cut-off concentration of other metals, particularly copper and zinc. The permittees argued that considering wide application of copper and zinc in industrial activities, the cut-off concentrations were too low.**

Response: The wide-spread application of various metals, particularly copper and zinc, at industrial facilities in Tennessee, does not constitute a compelling rationale for eliminating or increasing cut-off concentrations of any pollutant present in facilities

[1] Median Value is a pollutant concentration calculated from all sampling results provided from facilities classified in this sector during the previous permit term. By definition, a median is a statistical term identifying a number that divides numerically ordered data into two equal halves. In easier terms, the median is the middle piece of data when those data are placed in numerical order, or the average of the middle two if there is an even number of items. Therefore, median concentrations identified in the new TMSP represent concentration values typical for and achieved by industries in any particular sector.

storm water runoff. As stated above, the permittees argued that considering the wide application of copper and zinc in industrial activities, the cut-off concentrations were too low. However, none of the permittees proposed new cut-off concentrations, or a rationale for determining higher cut-off concentrations, which would ensure protection of designated uses of the waters of the State of Tennessee.

Cut-off concentrations for metals that were previously included in the TMSP as Criterion Maximum Concentration (CMC) values, and are hardness and TSS dependent, were adjusted to in-stream allowable criteria using a hardness of 25 mg/L (most conservative assumption as defined in the General Water Quality Criteria) and TSS of 32 mg/L (median value of 4240 TSS samples reported under the previous TMSP). This effectively increased cut-off concentrations for Lead, Nickel and Zinc as presented in the table below. The increases of cut-off concentrations do not violate the antibacksliding provisions, as contained in Section 402(o) of the Clean Water Act and codified in the NPDES regulations at 40 CFR §122.44 (l) *Reissued permits*, since these are not permit limitations, but report levels.

Parameter	Previous [mg/L]	New Permit [mg/L]
Lead	0.0816	**0.156**
Nickel	1.417	**2.679**
Zinc	0.117	**0.395**

The water quality criteria for total copper, even when adjusted to in-stream allowable criteria using the hardness of 25 mg/L (most conservative assumption as defined in the General Water Quality Criteria) and TSS of 32 mg/L (see text above), is still lower than cut-off concentration used in the previous TMSP or in the EPA's NPDES Multi-Sector General Permit of 0.0636 mg/L. This value was based on the Minimum Level (ML) based upon highest method detection limit (MDL) times a factor of 3.18.

Based on the above rationale, the division has adjusted the cut-off concentration of total lead from 0.0816 to 0.156, total nickel from 1.417 to 2.679 and total zinc from 0.117 to 0.395 mg/L. The division will retain the total copper cut-off concentration of 0.0636 mg/L in the new TMSP.

4. Comment: **Some permittees have expressed concern regarding a seemingly endless cycle of sampling, reporting and SWPPP updates, required when facilities exceed pollutant cut-off concentration repeatedly.**

Response: The division's intent is not to create unnecessary reporting and compliance burden but, to work with facilities to make sure that stormwater is properly managed. The division recognizes that there may be situations where properly managed sites will have stormwater discharges that exceed cut-off concentrations. However, in those situations, it is important to document that all necessary and appropriate measures have been implemented and the quality of stormwater has been optimized.

5. Comment: **Similarly to the Federal Multi-Sector General Industrial Storm Water Runoff permit, the TMSP should allow for some types of dry-weather (i.e. non-storm**

water) discharges, such as fire hydrant flushings, irrigation drainage, uncontaminated air conditioning condensate etc.

Response: Certain types of discharges have been considered to have a negligible reasonable potential for addition of pollutants to the waters of the state, have not typically been regulated through the division's NPDES permitting program, and consequently, were not explicitly mentioned in the previous TMSP. However, after considering federal permit requirements, and in order to avoid a conflict between a SWPPP requirement for certification that the discharge has been tested or evaluated for the presence of non-storm water discharges, the following types of discharges will be authorized under the new TMSP:

- Fire hydrant flushings;
- Potable water including water line flushings;
- Uncontaminated air conditioning or compressor condensate;
- Irrigation drainage;
- Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;
- Uncontaminated ground water or spring water;
- Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but NOT intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).
- Discharges from wet deck storage areas, which are authorized only if no chemical additives are used in the spray water or applied to the logs.

6. Comment: Evaluation and reporting requirements following exceedances of cut-off concentration(s) should be included with every permit sector, not only in the general part of the TMSP (Part IV.C: Keeping Plans Current).

Response: In order to avoid any confusion regarding evaluation and reporting requirements and updating the facility's SWPPP following an exceedance of a cut-off concentration, the following verbiage was added to each of the TMSP sectors which require chemical analysis of storm water runoff:

"In addition, the permittee shall evaluate the results obtained from sampling and monitoring following the required annual sampling events to determine whether the facility is below, meets, or exceeds the monitoring cut-off concentrations as shown in the Table above. If the results of annual storm water runoff monitoring demonstrate that the facility has exceeded the cut-off concentration(s), the permittee must inform the division's local Environmental Assistance Center in writing within 30 days from the time SW monitoring results were received, describing the likely cause of the exceedance(s). Furthermore, within 60 days from the time SW monitoring results were received, the facility must review its storm water pollution prevention plan, make any modifications or additions to the plan which would result in improved storm water pollution control for that facility, and submit to the division's local Environmental Assistance Center a brief summary of the proposed SWPPP modifications (including a timetable for implementation)."

7. Comment: **Chemical monitoring requirement for total arsenic for facilities in Sector K, Table K-1 should not be removed in the new TMSP.**

Response: Parameters for which facilities reported data consistently above or below cut-off concentrations (no exceedances reported) were added or removed from the new TMSP monitoring requirements. Parameters to be added to the monitoring list in Sectors C, F and L were:

Parameter	Table
Aluminum, Total	L-1
COD	F-1
Copper, Total	C-3
Magnesium, Total	L-1, C-3

Parameter to be removed from the monitoring list in Sector K is:

Parameter	Table
Arsenic, Total	K-1

The above determination was based on an extensive review of storm water monitoring results. Storm water runoff data analysis was performed in order to determine appropriateness of sampled parameters and corresponding cut-off concentrations for the new TMSP. A total of 25,193 results were analyzed and compared within TMSP sectors and geographic regions. The details of analysis are available in the TMSP Rationale, pages RAT-31 through RAT-53.

A summary of total arsenic data for sector K, is listed in the table below. Based on the fact that none of the samples has exceeded the cut-off concentration (0.16854 mg/L), the decision to remove monitoring requirements for Sector K was made and will be retained in the final version of the TMSP.

Arsenic, Total Cut-off Concentration: 0.16854 mg/L			
Tracking #	**Year**	**Quarter**	**Reported Value**
TNR050321	1998	1	<0.005
TNR050321	1998	2	<0.005
TNR050321	1998	3	<0.005
TNR050321	1998	4	<0.005
TNR050321	2000	1	<0.005
TNR050321	2000	2	<0.005
TNR050321	2000	3	<0.005
TNR050321	2000	4	<0.005
TNR051593	2000	1	<0.005
TNR051594	2000	2	<0.1
TNR051594	2000	3	<0.1
TNR051594	2000	4	<0.1
TNR053226	1998	1	<0.1

Arsenic, Total Cut-off Concentration: 0.16854 mg/L			
Tracking #	**Year**	**Quarter**	**Reported Value**
TNR053226	1998	2	<0.1
TNR053226	1998	3	<0.1
TNR053226	1998	4	<0.1
TNR053226	2000	1	<0.1
TNR053226	2000	2	<0.1
TNR053226	2000	3	<0.1
TNR053226	2000	4	<0.1
TNR053857	2000	1	0.075
TNR053935	2000	1	0.0085
TNR053935	2000	2	<0.005
TNR053935	2000	3	<0.005
TNR053935	2000	4	<0.005

8. Comment: **A number of persons requested that chip mills and pulp and paper facilities covered under the TMSP be required to report the locations of logging sites which supply the industry with raw timber. This pre-harvesting notification was suggested as a method to identify the locations of large scale clear-cutting operations which may have a significant impact on the waters of the state.**

Response: The division would like to address two or three issues related to NPDES permitting of storm water runoff from logging sites -- regulatory requirements and exemptions for discharges from silvicultural activities; the questions of point source discharges versus non-point source discharges from silvicultural activities; and reporting of logging sites.

First, reporting logging sites.

The division respects the interest of the public in knowing locations of logging activities, in order to investigate possible pollution of state's waters as a result of these activities. However, we are not requiring this reporting.

NPDES permit conditions apply to discharges from a permitted facility, and are intended to prevent pollution to waters of the state from that facility. And the permit, or permit conditions, apply to the operator of the permitted discharge. It is beyond the scope of the permit to deal with issues not related to discharges from the permitted activity.

In this case, the division is permitting discharges of storm water from a chip mill or pulp and paper products manufacturer. The division has been unable to conclude that the locations of the sources of wood for these operations has any significant bearing on our regulation of the quality of discharge from the permitted site.

Second, regulation of logging activities.

The division is aware of potentially harmful consequences to the state's waterways that can occur as a result of uncontrolled large-scale clear-cutting operations that do not implement Best Management Practices (BMPs).

NPDES regulations provide an exemption for non-point source silvicultural activities, which includes harvesting operations. Thus, clear-cutting is exempted from the NPDES permitting requirement. Please refer to applicable sections of federal rules. Also, the attached letter from Beverly H. Banister, Water Management Division Director, EPA Region IV provides further clarification of EPA's position on this point.

> 40 CFR 122.3 -- NPDES Exclusions.
>
> The following discharges do not require NPDES permits:
>
> (e) Any introduction of pollutants from non-point source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands and forest lands, but not discharges from concentrated animal feeding operations, (122.23), concentrated aquatic animal products facilities (122.24), discharges to aquaculture projects (122.25),and discharges from silvicultural point sources as defined in 122.27.
>
> 122.27 -- Silvicultural activities
>
> (a) Silvicultural point sources (SPS), as defined below, are subject to the NPDES program.
> (b) Definitions (1) SPS means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the U.S. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff.

In accordance with EPA regulations and guidance, the division will not require that timber harvesting operations included in SIC code 2411 obtain notices of coverage.

Note that some activities associated with harvesting operations (e.g. processing, sorting or storing harvested timber which has been transported from one or more harvested sites) are not exempted from the NPDES program, and storm water discharges must be permitted.

Finally, the issue of point source discharges versus non-point source discharges from silvicultural activities, and in particular what requirements apply in cases where a point source is identified at a harvesting location.

As explained above, harvesting operations are considered a non-point source activity under NPDES regulations and as such do not require an NPDES permit.

The TWQCA differentiates between point and non-point source forestry activities as evidenced by the excerpt below:

> "Nothing whatsoever in this part shall be so construed as applying to any agricultural or forestry activity or the activities necessary to the conduct and operations thereof or to any lands devoted to the production of any agricultural or forestry products, unless there is a point source discharge from a discernible, confined, and discrete water conveyance"

To address sources of pollution to waters of the state from forestry activities, including point sources, the Department of Environment and Conservation cooperates with the Department of Agriculture. Should a harvesting operation be found to have a point source discharge, the division follows the dictates of the TWQCA and its Memorandum of Agreement with the Department of Agriculture.

In summary –

The division's focus remains on the protection of the waters of the state, rather than simply issuance of permits. The division can not issue any individual NPDES permits, approve coverage under the TMSP or issue any other permit that is not protective of designated uses, or will result in a condition of pollution of a receiving stream. The division's intent is to fully implement our Memorandum of Agreement between the Tennessee Department of Agriculture and the Tennessee Department of Environment and Conservation, dated January 26, 1999, establishing a cooperative, comprehensive, and efficient program of effective water quality protection associated with silvicultural and agricultural production activities.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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JAN 28 2002

Mr. Paul E. Davis, Director
Division of Water Pollution Control
Tennessee Department of Environment and Conservation
L&C Annex - 6th Floor
401 Church Street
Nashville, Tennessee 37243-1534

SUBJ: Clarification of Logging and Storm Water Permit Issues

Dear Mr. Davis:

A great deal of concern has been raised about the various environmental effects of logging-related activities in the Southeast, particularly the secondary effects of clearcutting forests used as chip mill sourcing (logging) areas. Potential impacts resulting from such activities include stream sedimentation, soil erosion, endangered species impacts, loss of habitat, reduction of biodiversity, soil compaction, and wetlands impacts. In response to these concerns, we have discussed these issues with EPA Headquarters. Headquarters concurs with our position on this issue. Our position is presented in this letter and expanded upon for clarification.

EPA initially addressed the issue of storm water discharges associated with this type of industrial activity in its rulemaking of November 16, 1990, identifying standard industrial code (SIC) 24, *Lumber and Wood Products, except Furniture (excluding 2434),* under one of its 11 categories of industrial discharges. In the preamble of the 1990 rulemaking, EPA specifies that:

> "...the definition of discharge associated with industrial activity does not include activities or facilities that are currently exempt from permitting under the National Pollutant Discharge Elimination System (NPDES). EPA does not intend to change the scope of 40 CFR 122.27 in this rulemaking. Accordingly, the definition, 'storm water discharges associated with industrial activity' does not include sources that may be included under SIC 24, but are excluded under 40 CFR 122.27." (FR, Vol. 55, No. 222, Friday, 11/16/90, page 48011)

Further clarification of this issue is discussed in the following paragraphs.

Certain silvicultural activities are not required to be covered under the NPDES storm water permits (40 CFR 122.27). In accordance with 40 CFR 122.27(b), point sources that must be covered by an NPDES permit are "any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities, which are operated in connection to silvicultural activities and from which pollutants are discharged into waters of the

United States." Discharges from nonpoint source silvicultural activities, including harvesting operations, are not required to be covered.

Harvesting activities can be further defined to include the following: the felling, skidding, preparation (e.g., delimbing and trimming), loading and the initial transport of forest products from an active harvest site. An active harvest site is considered to be an area where harvesting operations are actually on-going. EPA also interprets the definition of harvesting operations to include incidental stacking and temporary storage of harvested timber on the harvest site prior to its initial transport to either an intermediate storage area or other processing site. The Agency considers this activity to be an inherent part of harvesting operations. However, EPA does not intend the definition of active harvesting operations to include sites that are processing, sorting, or storing harvested timber which has been transported from one or more active harvesting sites. Moreover, EPA considers these site activities a point source under 40 CFR 122.27(b)(1), and, as such, operators of these sites must acquire an NPDES permit for coverage of their storm water discharges.

I hope this letter addresses your specific concerns. If you should have any additional concerns regarding this issue, please contact me or have a member of your staff contact Roosevelt Childress, Chief, NPDES and Biosolids Permits Section, at (404) 562-9279.

Sincerely,

Beverly H. Banister, Director
Water Management Division

9. Comment: **A number of persons requested more extensive public participation in the TMSP notice of coverage process.**

Response: The division will make every effort to further enhance opportunities for public participation in reviewing, processing and approving Notices of Intent (NOI) for coverage under the TMSP. The following methods are currently used or are proposed for future use:

TMSP mailing lists: As of December 28, 2001, the division's database contained 237 individuals or organizations on the TMSP-related mailing list. Regular TMSP updates are sent via electronic or regular mail.

Web site information: The division's web site
http://www.state.tn.us/environment/wpc/index.html
specifically the Environmental Permitting Handbook section, contains valuable information regarding water resources and NPDES permitting requirements in the State of Tennessee. Of particular interest to re-issuance of this permit is the NPDES Industrial Stormwater General Permit site, located at
http://www.state.tn.us/environment/permits/strmh2o.htm
A list of facilities covered under the TMSP (as of December 19, 2001) is located at
http://www.state.tn.us/environment/wpc/stormh2o/TmspPerm.pdf

This list will be updated on a monthly basis. Furthermore, the division plans to post more frequent updates containing list of latest NOIs received in our offices at the NPDES Industrial Stormwater General Permit site:
http://www.state.tn.us/environment/permits/strmh2o.htm

10. Comment: **The division should make a more focused effort to contact facilities that may require coverage under Sector A.**

Response: Since the beginning of the EPA storm water program, in a rule promulgated on November 16, 1990, the division has contacted thousands of industrial facilities that may require coverage under the storm water regulations. The most recent mass-mailing effort was on February 1, 2001, when 6,432 facilities were contacted, 538 of which were classified under SIC Major Group 24: Lumber And Wood Products, Except Furniture, and 20 facilities with the SIC code 2411. The division will continue to proceed with efforts to notify all industrial facilities about TMSP requirements needed to protect the water resources in the State of Tennessee.

11. Comment: **Can a facility submit a No Exposure Certification more than once, i.e. if the condition of exposure changes, can the permitting status change accordingly?**

Response: By submitting the No Exposure Certification Form, the permitted facility certified under penalty of law that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility or site. If the condition of no exposure ceases, the facility must immediately obtain coverage under a storm water NPDES permit by submitting a completed NOI form. Nothing in the new TMSP, Federal or State regulations precludes the industrial

facility from submitting the No Exposure Certification Form again if the condition of no exposure is properly and fully re-established.

12. Comment: **Why was the definition of "time-weighted composite" retained in the new TMSP?**

Response: Considering that all storm water monitoring requirements are based on the grab sample, the definition of time-weighted composite sample (a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval) has been removed from the final version of the TMSP.

13. Comment: **Are limitations on discharges into 303(d) listed waters (Part I.D) also applicable to discharges immediately upstream from 303(d) listed segments?**

Response: Limitation of Discharges to Water Quality Impaired/Water Quality Limited Waters and special requirements for Storm Water Pollution Prevention Plan development and implementation was modified to explicitly include discharges immediately upstream from 303(d) listed segments:

"Any operator who intends to obtain authorization under the TMSP for all new and existing storm water discharges to water quality-impaired (303(d) listed) waters, or discharges upstream of waters impaired by the same parameter, that may affect the impaired waters, from facilities where there is a reasonable potential to contain pollutants for which the receiving water is impaired, must satisfy the following conditions prior to the authorization (for the most recent list of water quality-impaired (303(d)) waters, go to http://www.state.tn.us/environment/wpc/):"

14. Comment: **The definitions for High Quality Waters and 303(d) listed streams should be included in the new TMSP.**

Response: The following definitions for High Quality Waters and 303(d) listed streams were included in the Part X Definitions of the new TMSP:

High Quality Waters - Characteristics of high quality waters are listed at Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRW); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards. High quality waters are sometimes referred to as Tier II or Tier III (ONRW) waters.

303(d) List is a compilation of streams and lakes in Tennessee that are "water quality limited" or are expected to exceed water quality criteria in the future and need additional pollution controls. Water quality limited streams are those that have one or more properties that violate water quality standards. Therefore, the stream or lake which is considered to be a Section 303(d) listed water or any segment of the stream or lake identified as impaired since promulgation of the latest 303(d) list is considered to be impacted by pollution and not fully meeting its designated uses. If a discharge enters impaired waters, or is upstream of impaired

waters and may affect the impaired waters, then the discharges will be subject to the special permit requirements.

15. Comment: **There should be criteria or processes for determining the appropriate distance upstream of the impaired or high quality segment for which special protection is needed.**

Response: When the division processes Notices of Intent for coverage under this permit, we will consider the most recent information on whether or not waters are impaired or designated as high quality waters and will decide accordingly whether or not there is reasonable potential that the permittee's discharges will contribute to impairment of the receiving stream in question. The permittee will be informed of this decision. The same approach will be used for evaluating discharges located upstream from impaired or high quality waters. Variability of industrial activities covered under the TMSP, number of pollutants that may be discharged and receiving stream – specific conditions that may be encountered across the state precludes the division from defining exact criteria and projecting water-quality impacts from proposed activities ahead of time. The division will make every effort to consistently interpret and apply criteria used to evaluate a reasonable potential for discharge of pollutants from permitted industrial sites into, or upstream from, the impaired or high quality segments.

16. Comment: **In Part I.D, the first paragraph indicates the permittee will certify eligibility for coverage under the TMSP on the NOI. Since it is the division (not the permittee) who ultimately determines eligibility for coverage, it would be more appropriate for the permittee to certify his or her belief that the site is eligible for coverage (with certification that the information is true, accurate, and complete) thus eliminating having the permittee certify something that is the division's determination.**

Response: The division agrees with this comment and has changed the first paragraph in Part I.D to read as following:

"Any operator who intends to obtain authorization under the TMSP for all new and existing storm water discharges to water quality-impaired (303(d) listed) waters, or discharges upstream of waters impaired by the same parameter, that may affect the impaired waters, from facilities where there is a reasonable potential to contain pollutants for which the receiving water is impaired, must satisfy the following conditions prior to the authorization (for the most recent list of water quality-impaired (303(d)) waters, go to http://www.state.tn.us/environment/wpc/):"

17. Comment: **The process to submit pollutant loading estimates prior to submitting the NOI in Part I.D.1 should <u>require</u> the operator to submit an estimate of pollutant loads, should specify the required format for the pre-NOI information submittal, to whom in the division this information is submitted, how far in advance of the NOI it is to be submitted, or how long the division has to return an answer.**

Response: The requirements for new discharges or existing discharges proposing an increase of pollutant loading, as found in Part I.D.1. have been changed to:

"Prior to the division's granting coverage under the TMSP, the operator shall provide an estimate of pollutant loads in storm water discharges from the facility to the division. This estimate shall include the documentation upon which the estimate is based (e.g., sampling data from the facility, sampling data from substantially identical outfalls at similar facilities, modeling, etc.). Existing facilities should base this estimate on actual analytical data, if available. This information shall be submitted in writing to the division (see Part II.C: Where to Submit) at least 90 days prior to commencement of proposed industrial activities at the site."

There will be no specific format requirements, and the discharge from the proposed new industrial site or a facility proposing an increase of pollutant loading shall not commence until the operator has received notice from the division confirming eligibility.

18. Comment: **In Part I.D.2, regarding existing discharges to a 303(d) listed stream for which a TMDL is later developed, the schedule proposed by the new TMSP does not allow sufficient time for the permittee to appropriately respond to the requirements of the TMDL or to amend the SWPPP. Requiring the plan to be revised within 14 days, the modification to be implemented prior to the next event (which could occur at any time), and additional BMPs to be reported to the division in 30 days is impracticable and unreasonable. The commenter suggested requirement to modify the plan within 30 days, to implement changes not requiring construction within 60 days, and to notify the appropriate Environmental Assistance Center within 90 days. Those measures requiring construction should be completed within one year (consistent with the standard for construction in individual permits).**

Response: The division agrees with the proposed schedule and has made changes in the new TMSP accordingly.

19. Comment: **The additional SWPPP requirements in Part IV.F for the 303(d) listed streams and high quality waters appear to be adopted from the general construction storm water permit. These requirements are not necessarily applicable and overly burdensome for developed industrial sites and will not necessarily reduce pollution from these sources.**

Response: The additional SWPPP requirements (requiring the inspections before anticipated storm events, and within 24 hours after the end of a storm event of 0.1 inches or greater) were adopted, in part, from the general construction storm water permit. Upon further review, the division agrees that such requirement for industrial facilities may be too labor intensive and may not yield the desired results. As a result, the division has changed the Part IV.F to read:

"The permittee shall perform the inspections (as described below) at a minimum frequency of once per month."

20. Comment: **The requirement to indicate increased frequency of sampling on the form found in Part VI.A.2 is not consistent with the requirement in the last sentence of Part VI.B to submit one monitoring report form per storm event sampled for each outfall. Will there be a place on the storm water**

monitoring report form to include sampling conducted more frequently than required on the form as required in Part VI.A.2?

Response: Yes, the new storm water monitoring report form will have a space to report any additional pollutant monitoring performed more frequently than required in Parts VI.D. and XI., and by using approved analytical methods.

21. Comment: It was suggested that the reporting requirement "the permittee shall provide the date and duration …" be replaced with "the permittee shall maintain a record of the date and duration …" in all sectors of the new TMSP. This would eliminate the confusion surrounding whether information such as estimated volume of runoff, dates of events, etc., has to be submitted when it is not requested on the storm water monitoring report form.

Response: The division agrees with this suggestion and has made changes in the new TMSP accordingly.

22. Comment: Part I.E (Permit Eligibility Regarding Protection of Water Quality Standards and Compliance with state Anti-degradation Requirements) should make specific reference to Tier II and Tier III waters.

Response: Part I.E. of the new TMSP is changed to read:

"Pursuant to the Rules of the Tennessee Department of Environment and Conservation, Chapter 1200-4-3-.06, titled "Tennessee Antidegradation Statement," and in consideration of the Department's directive in attaining the greatest degree of effluent reduction achievable in municipal, industrial, and other wastes, the permittee shall further be required, pursuant to the terms and conditions of this permit, to comply with any applicable Waste Load Allocations (WLA), effluent limitations and schedules of compliance, required to implement applicable water quality standards, to comply with a State Water Quality Plan or other State or Federal laws or regulations, or where practicable, to comply with a standard permitting no discharge of pollutants. Additional Storm Water Pollution Prevention Plan (SWPPP) requirements, as described in Part I.F are applicable to new discharges and discharges which constitute an increase of pollutant loading for discharges to waters identified by the Department as high quality waters, or discharges upstream of high quality waters, that may affect the high quality waters. High quality waters are sometimes referred to as Tier II or Tier III (ONRW) waters."

Furthermore, the definition of High Quality Waters was added to Part X: Definitions of the new TMSP (see Comment #14).

23. Comment: A reminder that antibacksliding provision is applicable should be added to the new TMSP.

Response: Part IV.A.4: Facilities Switching From Coverage Under an Individual NPDES permit to the TMSP was modified to reference anti-backsliding provisions, as follows:

"The antibacksliding provisions, as contained in Section 402(o) of the Clean Water Act and codified in the NPDES regulations at 40 CFR §122.44 (l) *Reissued permits* shall apply to the facilities previously subject to an individual NPDES permit that switch to coverage under this permit."

24. Comment: **SWPPP implementation schedule should be incorporated for facilities switching from the expiring multi-sector general permit to the proposed permit.**

Response: Part IV.A.1: Deadlines for Plan Preparation and Compliance, Existing Facilities was modified as follows:

"Except as provided in paragraphs 3., 4. and 5. (below), all facilities seeking coverage under the new TMSP who were previously covered by the expiring TMSP shall continue to implement the storm water pollution prevention plan developed under the expiring permit. The SWPPP shall be modified to address additional requirements in the new permit no later than 60 days following the effective date of this permit. The revisions made to the plan shall be implemented within 180 days following the effective date of this permit, except where new construction is required, in which case the construction must be completed within 1 year following the effective date of this permit."

25. Comment: **Discharges from wet deck storage areas (SIC code 2411) should be included in the TMSP. These should be limited to discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.**

Response: Following the requirements of the Federal Multi-Sector Permit, discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage were included in the new TMSP. Specifically, the following requirements were added to Part xi.A.4 (Numeric Effluent Limitations):

"In addition to the numeric effluent limitations described by Part V.B. of this permit, the following effluent limitations shall be met by existing and new contaminated storm water discharges from Wet Decking Discharges at Log Storage and Handling Areas (authorized only if no chemical additives are used in the spray water or applied to the logs).

The concentration of pollutants in storm water discharges shall not exceed the effluent limitations in Table A-1.

Table A-1.
Numeric Effluent Limitations for Wet Decking Discharges at Log Storage and Handling Areas
(Wet deck storage areas only authorized if no chemical additives are used in the spray water or applied to the logs)

Effluent Characteristics	Effluent Limitations (mg/L) [1]
	Maximum for any 1 day
Debris (woody material such as bark, twigs, branches, heartwood, or sapwood).	No Discharge of debris that will not pass through a 2.54 cm (1'') diameter round opening.
pH	Within the range of 6.0 to 9.0

1.) Monitor once per year for each monitoring year.

Determination

The division's decision on this matter is to issue an NPDES Multi-Sector General Permit for Storm Water Discharges From Industrial Activities, Permit No. TNR050000.

DATE:_____

_____
Saya Ann Qualls, P.E.
Manager, Permit Section

_____
Paul E. Davis, P.E.
Director